

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1672V

UNPUBLISHED

STEVEN BROOKS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 29, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Jerome A. Konkell, Samster, Konkell & Safran, S.C., Milwaukee, WI, for Petitioner.

Austin Joel Egan, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On August 9, 2021, Steven Brooks filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered from a right shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered to him on January 30, 2020. Petition at 1. Petitioner further alleges that he suffered this injury for more than six months. Petition at 6. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 28, 2023, Respondent filed a combined Rule 4(c) report and Proffer (“Rule 4/Proffer”) in which he concedes that Petitioner is entitled to compensation in this case. Rule 4/Proffer at 1. Specifically, Respondent stated that “petitioner’s right shoulder

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

injury is consistent with SIRVA as defined by the Vaccine Injury Table. Specifically, petitioner had no history of pain, inflammation, or dysfunction of his right shoulder that would explain his post-vaccination symptoms; pain occurred within 48 hours after receipt of an intramuscular vaccination; pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain petitioner's shoulder pain." *Id.* at 4. Respondent further agrees that Petitioner suffered the residual effects of his condition for more than six months and that he has otherwise satisfied all legal prerequisites for compensation under the Act. *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master